IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.666 OF 2003

Appaji Laxman Varpe & ors ..Petitioners

V/s.

Keshav Shantaram Sabnis & ors ..Respondents

Mr.S.S.Patwardhan for the petitioners

CORAM : R.V.MORE, J.

DATE : 25TH JUNE, 2007

P.C.

1. The petitioners in the above said Writ Petition are the original plaintiffs in Regular Civil Suit No.28 of 1996. The suit was for perpetual injunction restraining respondents from creating third party interest in suit property, and also interferring in petitioners' possession in the suit property.

2. The petitioners also filed an application at Exh.5 for temporary injunction in terms of permanent injunction which was granted by the trial Court by it's order dated 27th September, 2002.

3. The respondents being aggrieved by the order dated 27th September, 2002 preferred Miscellaneous Civil Appeal No.60 of 2002. Mr.S.S.Patwardhan makes a statement that during the pendency of this appeal there was no stay to the order passed by the trial Court. The Lower Appellate Court allowed this Miscellaneous Civil Appeal No.60 of 2002 by it's order dated 18th December, 2002 and the petitioners' application at Exh.5 claiming temporary injunction came to be rejected.

4. The petitioners being aggrieved preferred the aforesaid Writ Petition before this Hon'ble High Court. The learned single Judge on 3rd November, 2003 admitted the aforesaid Writ Petition by passing the following order.

A. Rule. Respondent no.1 waives service.

B. Interim stay in terms of prayer clause (b).

C. Trial Court is directed to expedite the hearing of suit. Suit to be disposed of on

or before 30th June, 2004. Needless to say that interim relief granted in this petition shall continue only till decision of the suit.

D. All contentions on merits are left open.

E. Parties to act on an ordinary copy of this order duly authenticated as true copy by the Sheristedar of this Court.

5. Thus, the order of temporary injunction which was granted in favour of the petitioners on 27th September, 2002 was in force till today. By the order passed at the time of admission the trial Court was specifically directed to dispose of the suit as expeditiously as possible on or before 30th June, 2004.

6. Mr. S.S.Patwardhan, the learned counsel for the petitioners is not in a position to make a statement regarding pendency of the suit. None appears for the respondents. In these facts circumtances I am of the opinion that the petition is worked out at the admission stage and no purpose will be served by keeping this Writ Petition pending in this Hon'ble High Court. Even, assuming

that suit is pending, the interest of justice will be served by directing the trial Court to dispose of the same at the earliest by maintaining status-quo as of today. In these facts and circumstances, I pass the following order.

O R D E R

I. The trial Court namely Civil Judge, Junior Division, Chandgad is directed to hear and dispose of Regular Civil Suit No.28 of 1996 as expeditiously as possible and in any case within a period of six months from the date of receipt of this order, if already same is not disposed of. The trial Court while disposing of the suit shall not be influenced by the order impugned or interim order passed in this Writ Petition and suit will be disposed of independently on its own merits.

II. The order dated 3rd November, 2003 mentioned in para '4' shall remain operative during the pendency of Regular Civil Suit No.28 of 1996, if same is not already disposed of.

III. Writ Petition is disposed of.

IV. No order as to costs.

(R.V.MORE, J.)